

BEFORE THE  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

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Rules for Market Tests of  
Experimental Products

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Docket No. RM2013-5

PUBLIC REPRESENTATIVE'S REPLY COMMENTS  
CONCERNING NOTICE AND ORDER OF PROPOSED RULEMAKING

(October 17, 2013)

On August 9, 2013, the Commission proposed new rules for market tests of experimental products.<sup>1</sup> The Public Representative and the Postal Service were the only two parties to file comments.<sup>2</sup> The Public Representative files these brief reply comments in support of the suggestions offered by the Postal Service in its initial comments.

The Postal Service had two primary concerns. The first involved the requirement in Proposed Rule 3035.3(b)(5) that the Postal Service provide "proposed Mail Classification Schedule Language" with its notice of a proposed market test. The Postal Service stated that this information is not presently provided in market test proceedings<sup>3</sup>

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<sup>1</sup> Notice and Order of Proposed Rulemaking Establishing Rules for Market Tests of Experimental Products, August 9, 2013 (Order No. 1803).

<sup>2</sup> Initial Comments of the United States Postal Service, September 20, 2013 (Postal Service Comments); Public Representative's Comments Concerning Notice and Order of Proposed Rulemaking, September 19, 2013.

<sup>3</sup> While the Postal Service has not generally provided Mail Classification Schedule Language in its market test notices, such language was provided with its most recent filing. Docket No. MT2013-2, Notice of the United States Postal Service of Market Test of Experimental Product—International Merchandise Return Service—Non-published Rates (IMRS-NPR) and Notice of Filing IMRS-NPR Model

and may be contrary to 39 U.S.C. § 3641(a)(2). Postal Service Comments at 2-3. In addition, the Postal Service was concerned that the requirement “may obstruct useful innovation” by forcing “the Postal Service to innovate in an inflexible manner, without a reasonable opportunity to mold or shape a product during the course of a test.” *Id.* at 3-4.

The Public Representative supports the Postal Service’s view concerning the requirement that it provide proposed Mail Classification Schedule language. In most prior market test proceedings, the Postal Service has included a detailed description of the experimental product in its notice.<sup>4</sup> Such a description was adequate to inform the public and the Commission about the intended scope and nature of the market test, while allowing the Postal Service greater flexibility than it may have with a permanent product. Thus, the Public Representative supports a revision of Proposed Rule 3035.3(b) that replaces the requirement of proposed Mail Classification Schedule language with a description of the experimental product.

The Postal Service’s second concern arose from the requirement that the Postal Service periodically report “administrative”, “ancillary”, and “start-up” costs in accordance with Proposed Rule 3035.20. Postal Service Comments at 4-8. The Postal Service shows a desire to provide the Commission with the information it seeks, but believes further information concerning the Commission’s expectations is needed to clarify the intended meaning of each of the requested costs. *Id.* at 6-7. The Public Representative concurs that the further clarification of these terms will assist the Postal Service and the public with better understanding of the Commission’s expectations. In addition, the Public Representative supports the Postal Service’s request that further comment be permitted on additional clarifications the Commission may offer. *Id.* at 6.<sup>5</sup> Since data collection of these costs may create some challenges or have some

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Contract and Application for Non-Public Treatment of Materials Filed Under Seal, July 12, 2013, at Attachment 2.

<sup>4</sup> See *e.g.*, Docket No. MT2013-1, Notice of the United States Postal Service of Market Test of Experimental Product—Metro Post—and Notice of Filing Material Under Seal, October 12, 2012, at 2-3; Docket No. MT2012-1, Notice of the United States Postal Service of Market Test of Experimental Product—First-Class Tracer, November 7, 2011, at 2-4.

<sup>5</sup> The Postal Service Comments request further comment solely for the Postal Service. *Id.* In the interest of fairness, the Public Representative suggests that any additional comment period should be open to all interested parties.

limitations, further comment may help to ensure the Commission receives accurate cost data in particular areas of interest.

Respectfully submitted,

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